IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2188 of 2005

Between:

Bandari Harinath, S/o. Late Ramulu,
Bhadrachalam, Khammam District.

..... PETITIONER

AND

Sree Sitharamachandraswamyvari Devasthanam, Bhadrachalam, rep by

its Executive Officer, Bhadrachalam, Khammam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in taking steps to evict the petitioner herein in Sy.No. 5/3 to an extent of 52 cents of Purushothampatnam Village, Bhadrachalam Mandal, Khammam District without following the procedure under Land Encroachment Act, and without following due process of law is illegal and void and opposed to Article 14, 19, 21 and 300-A of Constitution of India and enjoyment of the land in question without due process of law and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.MUMMANENI.SRINIVASA RAO

Counsel for the Respondent: G.P. for Endowments and

MR.RAVI KONDAVEETI

The Court at the stage of admission made the following ORDER:

This writ petition is filed seeking a writ of *mandamus* declaring the action of the respondent, Sri Sitharamachandra Swamy vari Deasthanam, Bhadrachalam, in taking steps to evict the petitioner from the land admeasuring Ac.0.52 cents in survey No.5/3 of Purushothampatnam village, Bhadrachalam mandal, Khammam district. The petitioner contends that he purchased the land from a private individual several decades ago and ever since then he is in possession of the same. His grievance is that the Devasthanam is trying to evict him without following the procedure prescribed by law.

Heard the learned counsel for the petitioner, the learned standing counsel for the respondent and the learned Government Pleader for Endowments.

From the record placed before this Court, it is evident that the petitioner filed W.P.No.16818 of 2004 before this Court in respect of this land as well as another item in survey No.5/1. After taking note of the various developments that have taken place ever since the decree in O.S.No81 of 1948 and an order of eviction passed under Section 85 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, the writ petition was dismissed through order dated 20.09.2004. It was left open to the petitioner to avail the remedy in a civil Court.

The petitioner filed W.A.No.66 of 2004 against the Judgment in W.P.No.16818 of 2004. Before filing the writ appeal, he filed O.S.No.244 of 2004 before the

Sub-Divisional Magistrate (Mobile Court), Bhadrachalam under Rule 7 of the A.P. Agency Rules, 1924. The Division Bench dismissed the writ appeal, taking note of the said fact. The grievance of the petitioner, which is canvassed in this writ petition, can certainly be gone into in the pending suit, if necessary amendments are carried out.

Hence, the writ petition is dismissed, leaving it open to the petitioner to seek the relief claimed in this writ petition, in the pending suit by undertaking necessary amendments. There shall be no order as to costs.

16.02.2005

ksld

To

1 The Executive Officer, Sree Sitharamachandraswamyvari Devasthanam, Bhadrachalam, Khammam District.

2 Two CCs. to the G.P. for Endowments, High Court of A.P., Hyderabad (OUT)

3 Two CD copies.